

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

SAMUEL WESLEY-EL

v.

UNITED STATES OF AMERICA

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: CIVIL NO. CCB-14-41
: Criminal No. CCB-97-033
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MEMORANDUM

Samuel Wesley-El has filed another motion under 28 U.S.C. § 2255 challenging the concurrent life sentences imposed by this court on July 23, 1997, following his conviction by a jury of drug distribution and related charges. His convictions were upheld on direct appeal to the Fourth Circuit. 165 F.3d 22 (1998). An initial § 2255 petition was considered and denied on the merits on May 9, 2004; a motion under 28 U.S.C. § 2241 was construed as a successive § 2255 motion and was dismissed on July 31, 2008. A motion for sentence reduction also has been denied.

In the present motion, filed January 7, 2014, Wesley-El appeared to argue that the motion should not be treated as successive because he was claiming “actual innocence” under *McQuiggin v. Perkins*, 133 S. Ct. 1924 (2013), and thereby could overcome a procedural bar such as the need for Circuit authorization, *see* 28 U.S.C. § 2244(b)(3)(A). Wesley-El’s motion, the government’s response, and Wesley-El’s reply have been reviewed.

First, the court does not find any authority for consideration of the merits of this successive petition without Circuit authorization. Accordingly, the petition will be dismissed without prejudice. Wesley-El is free to seek authorization from the Fourth Circuit Court of Appeals.

Second, if a showing of “actual innocence” does permit this court to rule on the petition without prior authorization, it would be denied because the life sentences were validly imposed, taking into account the drug quantities involved and the defendant’s prior record. There is no showing of actual innocence.

Accordingly, a certificate of appealability will not issue and the motion will be denied by a separate Order.

May 31, 2017
Date

/S/
Catherine C. Blake
United States District Judge